

LATHAM & WATKINS LLP

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Attorneys for Defendant APPLE INC.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

HERBERT H. KLIEGERMAN, on behalf of himself and
others similarly situated,

Plaintiff,

-against-

APPLE INC. and AT&T MOBILITY, LLC,

Defendants.

07 Civ. 08404 (PKC)

**DECLARATION OF CHRISTOPHER S. YATES IN SUPPORT OF DEFENDANT
APPLE INC.'S MOTION TO TRANSFER PURSUANT TO 28 U.S.C. § 1404(a)**

I, the undersigned, Christopher S. Yates, do hereby declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am over the age of 18 and a partner with the law firm of Latham & Watkins LLP, 505 Montgomery Street, Suite 2000, San Francisco, CA 94111, (415) 391-0500, attorneys of record for defendant in the above-captioned litigation. I am a member in good

standing of the State Bar of California and am admitted *pro hac vice* in this action. I respectfully submit this declaration in support of Apple Inc.'s motion to transfer.

2. Attached as Exhibit A is a true and correct copy of the First Amended Complaint filed in *Smith v. Apple Inc., AT&T Mobility, LLC, et al.*, filed on November 2, 2007 in Santa Clara County Superior Court. Apple removed the *Smith* case to the United States District Court for the Northern District of California.

3. Attached as Exhibit B is a true and correct copy of the Complaint filed in *Holman v. Apple Inc., AT&T Mobility, LLC, et al.*, on October 5, 2007 in the Northern District of California.

4. Attached as Exhibit C is a true and correct copy of Apple's Administrative Motion to consider whether the *Smith* and *Holman* cases should be deemed "related," filed November 9, 2007.

5. Attached as Exhibit D is a true and correct copy of the Court's Order granting Apple's Administrative Motion entered on November 30, 2007.

6. Attached as Exhibit E is a true and correct copy of the Stipulation and Order to Enlarge Time for Plaintiff to File a Consolidated Amended Complaint entered on January 2, 2008 in, *In Re Apple and AT&TM Anti-Trust Litigation*, 07 Civ. 05152 JW.

Executed at San Francisco, California on January 18, 2008.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Christopher S. Yates

Christopher S. Yates